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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,700	01/07/2005	Ralf Neuhaus	2002P10203WOUS	5200
7590 11/18/2010				
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			EXAMINER KIM, TAE K	
			ART UNIT 2492	PAPER NUMBER
			MAIL DATE 11/18/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,700

Applicant(s)

NEUHAUS ET AL.

Examiner

TAE K. KIM

Art Unit

2492

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 24 and 30-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 24, and 30-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is in response to the Applicant's response filed on August 25, 2010. Claims 1 – 17, 19 – 23, and 25 – 29 have been cancelled by the Applicant. Claims 18 and 24 have been amended. Claims 30 – 44 have been added. Claims 18, 24, and 30 – 44, where Claims 18 and 30 are in independent form, are presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 33 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

1. Regarding Claim 33, the specification does not indicate how the method can determine whether or not the identical service software is used frequently or infrequently. Claim 33 is considered new matter and is required to be cancelled.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: what occurs after the step of "determining if a hardware of the second communication component meets a requirement for operating the first service software" to lead to the step of "activating the first service software in the second communication component by downloading the first service software from the first communication component to the second communication component." More specifically, the steps do not disclose whether or not it is necessary to meet the hardware requirement to activate the first service software in the second communication component.
3. Regarding Claim 30, the claim indicates that "the first and second communication components include an identical service software which provides a service [to] (sic) the client" and "the second communication component excludes the identical service software and includes a different service software." The two limitations are contradictory and do not clearly disclose the metes and bounds of the invention to be claimed.

Response to Arguments

Applicant's arguments filed August 25, 2010 have been fully considered but they are moot based on the new grounds of rejection.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 18, 24, 30 – 33, 37, 38, 40, 41, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,904,457 (hereinafter “Goodman”), in view of U.S. Appl. Patent 7,389,341 (hereinafter “Cornelius”).

4. Regarding Claim 18, Goodman discloses a method for updating firmware between a plurality of nodes within a communication network [Fig. 1; Col. 6, Lines 44-60] (providing communication services in a packet switching communication network). Goodman further discloses that there is a code update routine installed in each node that checks its own firmware code version with the version stored in the other nodes [Fig. 1; Col. 6, Lines 44-60] (providing a first communication component and a second communication component each of which includes a communication software to facilitate communication between the communication components). The firmware within each node has distinct hardware relevant to each nodes particular function within the system and a unique independent code image [Col. 3, lines 30-49, Col. 7, lines 47-58] (the first communication component includes a first service software, which provides a first service, and the second communication component excludes the first service software).

Additionally, Goodman discloses that the nodal system can be used in a variety of applications, such as automobiles, consumer electronics, etc. [Col. 2, lines 52-56]. Goodman also discloses that when using a unique independent code image for each individual node, when one node copies the code image from another node, a selected copy may be requested [Col. 7, lines 47-57]. Goodman discloses that the firmware can be specific to the nodal hardware that is relevant to each nodes particular function [Col.

3, lines 40-67]. Therefore, the Goodman system has the capabilities of providing a plurality of services within each node where some nodes provide the same service while also providing a unique service (searching for the first service software on the first communication component by the second communication component in response to the initiating).

Goodman, however, does not specifically disclose of initiating, by the first communication component, an activation of the first service software on the second communication component which excludes the first service, determining if a hardware of the second communication component meets a requirement for operating the first service software; and, activating the identical first service software in the second communication components by downloading the first service software from the first communication component to the second communication component.

Cornelius discloses a system and method of updating software on remote processing systems that comprise at least one software module that is required to accept messages within the network [Abstract]. Cornelius further discloses that process of updating or installing of software determines if the processing system has the requisite software for the installation [Col. 22, line 60 - Col. 23, line 7] (determining if a hardware of the second communication component meets a requirement for operating the first service software). Cornelius also discloses that the primary processing system communicates with the one or more remote data processing systems on at least one technical parameter [Fig. 3; Col. 9, line 66 – Col. 10, line 17] (initiating, by the first communication component, an activation of the first service software on the second

communication component which excludes the first service). Furthermore, Cornelius discloses that if there is a discrepancy in the software modules in the remote processing system, an upgrade module or a new software module is sent to the deficient remote processing system [Fig. 11; Col. 23, lines 22-55, Col. 24, lines 55-65] (activating the identical first service software in the second communication components by downloading the first service software from the first communication component to the second communication component).

It would have been obvious to one skilled in the art at the time of the invention to incorporate the teachings of Cornelius with Goodman since both systems are in the field of updating software operating on various nodes within a communication network. The hardware comparisons and the installing of new software from one node to another can readily be implemented within the Goodman nodal code update routine if it is determined that updating one node needed to be updated with software stored in another node. The motivation to do so is to ensure that the node that is receiving the update or software has the hardware necessary to perform the updated or new software [Col. 24, lines 27-24].

5. Regarding Claim 24, Goodman, in view of Cornelius, discloses all the limitations of Claim 18 above. Goodman further discloses that the first communication component has been provided with a most up-to- date release of the first service software [Col. 6, lines 61-67].

6. Regarding Claim 30, Goodman discloses a method for updating firmware between a plurality of nodes within a communication network [Fig. 1; Col. 6, Lines 44-

60] (a method for updating a service software in a communication network, the first and the second communication components include an identical service software which provides a service the client). Goodman further discloses that there is a code update routine installed in each node that checks its own firmware code version with the version stored in the other nodes [Fig. 1; Col. 6, Lines 44-60] (providing a first communication component, a second communication component and a third communication component each of which includes a communication software to facilitate communication between the communication components). The firmware within each node has distinct hardware relevant to each node's particular function within the system and a unique independent code image [Col. 3, lines 30-49, Col. 7, lines 47-58] (the first and the second communication components include an identical service software which provides a service the client, the second communication component includes a different service software).

Goodman further discloses that when a node is reset, a code check routine is initiated in each of the nodes, where each node requests the code signature from the other nodes [Fig. 2; Col. 4, lines 20-44] (searching, by the first communication component, the second and third communication components to identify which of the searched communication components includes the identical service software). The Goodman system compares the release information of all the nodes to determine if one of the nodes has a higher version of the firmware, then the first node will initiate the copying of the higher version of the firmware from the node it was found [Fig. 2; Col. 8-43] (comparing release information of the identical service software of the first

communication component with each release information of the identified communication components to determine a more-up-to date identical service software; and when the comparing indicates that the more-up-to-date identical service software is not the first communication component, initiating a software update of identical service software at the first communication component with the more-up-to date identical service software).

Additionally, Goodman discloses that the nodal system can be used in a variety of applications, such as automobiles, consumer electronics, etc. [Col. 2, lines 52-56]. Goodman also discloses that when using a unique independent code image for each individual node, when one node copies the code image from another node, a selected copy may be requested [Col. 7, lines 47-57]. Goodman discloses that the firmware can be specific to the nodal hardware that is relevant to each nodes particular function [Col. 3, lines 40-67]. Therefore, the Goodman system has the capabilities of providing a plurality of services within each node where some nodes provide the same service while also providing a unique service (searching for the first service software on the first communication component by the second communication component in response to the initiating).

Goodman, however, does not specifically disclose that the service software is used to provide a service to a client.

Cornelius discloses a system in which the software to be updated in the different nodes are business-to-business systems that provide business transactional data [Col. 3 lines 61-67]. Therefore, Cornelius discloses that the software that is being updated

provides services to clients. It would have been obvious to one skilled in the art at the time of the invention to incorporate the teachings of Cornelius with Goodman since both systems are in the field of updating software operating on various nodes within a communication network. The type of software that runs on each of the nodes within the Goodman system can be readily modified to support various tasks as designed by the architect of the system. The motivation to do so is to provide automatic updates to servers that provide services to clients.

7. Regarding Claims 31 and 40, Goodman, in view of Cornelius, discloses all the limitations of Claims 18 and 30 above. Cornelius further discloses that the searching and the comparing is repeated at settable time intervals [Col. 25, 3-19; polling cycles to check status of remote processing systems].

8. Regarding Claims 32 and 41, Goodman, in view of Cornelius, discloses all the limitations of Claims 18 and 30 above. Cornelius further discloses that the searching and the comparing are initiated in response to the client requesting the service [Col. 4, line 61 – Col. 5, 31; monitoring of transaction or communication between the base data processing system and any remote data processing system can determine if an update is needed].

9. Regarding Claim 33, Goodman, in view of Cornelius, discloses all the limitations of Claim 30 above. Cornelius further discloses that when the identical service software is used frequently, the searching and the comparing is repeated at settable time intervals [Col. 25, 3-19; polling cycles to check status of remote processing systems], and when the identical service software is used infrequently, the searching and the

comparing is initiated in response to the client requesting the service [Col. 4, line 61 – Col. 5, 31; monitoring of transaction or communication between the base data processing system and any remote data processing system can determine if an update is needed].

10. Regarding Claims 37 and 44, Goodman, in view of Cornelius, discloses all the limitations of Claims 18 and 30 above. Goodman further discloses that each of the communication components determines which service software is included by the respective component [Fig. 2; each node can request a code signature from each other node in the system].

11. Regarding Claim 38, Goodman, in view of Cornelius, discloses all the limitations of Claim 30 above. Goodman further discloses of initiating a search message, which includes information regarding the identical service software, to be sent to the second and the third communication components, and receiving, by the first communication component, a response from the only the second communication component being a communication component including the identical service software [Fig. 2; Col. 4, lines 40-67, Col. 7, lines 47-58; selected copies of the firmware can be requested].

Claims 34 – 36, 39, 42, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman, in view of Cornelius, in further view of U.S. Patent 7,006,614 (hereinafter “Feinberg”).

12. Regarding Claims 34, 35, 42, and 43, Goodman, in view of Cornelius, discloses all the limitations of Claims 18 and 30 above. Neither Goodman nor Cornelius, however specifically discloses that the client is a VOIP telephone.

Feinberg discloses a system consisting of server applications that provide communication between a plurality of devices including a VOIP telephone [Fig. 4, 19; Col. 13, lines 31-54]. It would have been obvious to one skilled in the art at the time of the invention to incorporate the teachings of Feinberg with Goodman or Cornelius since the software that provides the VOIP service can be one of the software modules operating on the nodes or processing systems. The motivation to do so is to provide telephonic services to clients.

13. Regarding Claims 36 and 39, Goodman, in view of Cornelius, discloses all the limitations of Claims 18 and 30 above. Neither Goodman nor Cornelius, however specifically discloses that the identical service software is selected from the group consisting of: a gateway functionality enabling communication between a packet switching communication network and a component in a circuit switching network; a voicemail server service, and an address server service.

Feinberg discloses a system consisting of server applications that provide communication between a plurality of devices including a VOIP telephone [Fig. 4, 19; Col. 13, lines 31-54]. Feinberg further discloses that the server can provide functions such as a name server, firewall, PBX, and voicemail [Col. 7, line 30 – Col. 8, line 8]. It would have been obvious to one skilled in the art at the time of the invention to incorporate the teachings of Feinberg with Goodman or Cornelius since the software that provides the name server, PBX, or voicemail service can be one of the software modules operating on the nodes or processing systems. The motivation to do so is to

provide a variety of services to clients within a communication network that include voice communications.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Examiner's Note: Examiner has cited particular figures, columns, line numbers, and/or paragraphs in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention, as well as the context of the passage as taught by the prior art disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae K. Kim, whose telephone number is (571) 270-1979. The examiner can normally be reached on Monday - Friday (10:00 AM - 8:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (571) 272-6776. The fax phone number for submitting all Official communications is (703) 872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the examiner at (571) 270-2979.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Tae K. Kim/

Tae K. Kim
Examiner, Art Unit 2492

November 6, 2010

/JOSEPH THOMAS/
Supervisory Patent Examiner, Art Unit 2492